

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DAVIS, et al.,

Plaintiffs,

Case No. 17-cv-11742

Hon. Mark A. Goldsmith

vs.

DETROIT DOWNTOWN
DEVELOPMENT AUTHORITY,
et al.

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION
TO ACCELERATE BRIEFING SCHEDULE (Dkt. 40)**

Plaintiffs' lawsuit seeks to halt the imminent approval of an amendment to a plan that will finance the relocation of the Detroit Pistons professional basketball team from Auburn Hills, Michigan, to the Little Caesars Arena in Detroit, Michigan. Plaintiffs' principal objection to the plan is that it allegedly will divert funds that were approved by voters solely for use in funding local schools and parks. At every turn, Plaintiffs have insisted that their claim comprises an emergency. See, e.g., Pl. Mot. for TRO (Dkt. 8); Pl. Emergency Mot. for Decl. Judgment (Dkt. 19).

Defendants argue that the "emergency" goes both ways; if the pall of pending litigation is not lifted by July 11, 2017, there is a very real risk that the National Basketball Association — which has authority to approve or reject the Pistons' relocation — will not consent to the relocation due to a lack of secured funding. Accordingly, rather than simply defending against Plaintiffs' motion for a temporary restraining order or preliminary injunction — which defense, even if successful, would avoid an injunction but leave the lawsuit in place — certain Defendants filed

their own motion to dismiss, which, if resolved in their favor, would dispose of this case in its entirety. See generally Defs. Mot. to Dismiss (Dkt. 32).

In the June 16, 2017 conference call, held between this Court and counsel for Plaintiffs and all Defendants who have filed an appearance, Plaintiffs indicated that they would not consent to an accelerated briefing schedule on Defendants' motion, insisting that they could not adequately respond without conducting some fact discovery. Defendants maintained that the standard briefing schedule — under which a response to their motion would be due July 6, 2017, and their reply would be due July 20, 2017 — would cause them, and the City of Detroit, irreparable harm. Accordingly, this Court, citing Eastern District of Michigan Local Rules 1.2 and 7.1(e), ordered the parties to brief why the standard briefing schedule should not be truncated for good cause (Dkt. 37).

Defendants filed a well-supported brief setting forth how, and why, the standard briefing schedule would cause irreparable harm to their interests. See generally Defs. Mot. to Expedite Br. Schedule (Dkt. 40). Defendants' brief also supports their claim that Plaintiffs (and the public generally) had notice of Defendants' plans for financing the Pistons' relocation as early as November 2016. Id. at 6.

Plaintiffs' response did not address a single argument in Defendants' brief, instead indicating Plaintiffs' intent to seek leave to amend their complaint. Plaintiffs do state that requiring them to respond to Defendants' motion to dismiss by June 20, 2017 — the due date proposed by Defendants, see Defs. Mot. to Expedite Br. Schedule at 7 — does not provide adequate time to respond. This Court agrees more time is required; but given (i) Plaintiffs' familiarity with issues, (ii) Defendants' un rebutted evidence that the public was on notice of the tax increment finance plan as early as November 2016, and (iii) Plaintiffs' own characterization of this matter as an

emergency, this Court finds that Defendants have set forth good cause for an accelerated briefing schedule. Furthermore, based on Plaintiffs' assertions regarding their impending motion for leave to amend their first amended complaint, this Court will set an accelerated briefing schedule for that motion as well, because it likely will raise closely related issues that should be decided along with those raised by Defendants' motion to dismiss.

Accordingly, Plaintiffs must file a response to the motion to dismiss by June 23, 2017, at 12:00 P.M. Defendants' reply is due by 12:00 P.M. on June 26, 2017. Plaintiffs must file their motion for leave to amend the first amended complaint by 5:00 P.M. on June 19, 2017, and Defendants must file their response to that motion by 12:00 P.M. on June 22, 2017. Plaintiffs' reply brief is due at 12:00 P.M. on June 26, 2017. The motion for leave to amend and the response brief are limited to 10 pages, exclusive of attachments; the reply brief is limited to five pages, exclusive of attachments. A hearing on both motions is set for **9:00 A.M. on June 28, 2017, at the Theodore Levin United States Courthouse, 231 W. Lafayette Boulevard, Courtroom 860, Detroit, Michigan.**

SO ORDERED.

Dated: June 18, 2017
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on June 18, 2017.

s/Karri Sandusky
Case Manager